

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

<b>In re:</b>	§	<b>Case No. 05-21207</b>
	§	
<b>ASARCO LLC, <i>et al.</i>,</b>	§	<b>Chapter 11</b>
	§	
<b>Debtors.</b>	§	<b>Jointly Administered</b>
	§	

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<b>Expert Name:</b>	<b>William M. Kime</b>
<b>Retention on Behalf of:</b>	<b>The United States</b>

**PROFFER OF DIRECT TESTIMONY OF WILLIAM M. KIME**

## **Introduction:**

The following is a true and accurate statement of my testimony if I were called as a witness in open court in this case.

### **A. Brief Summary of Opinions**

1. My prior report summarizes the costs incurred and to be incurred by the Department of Justice in the prosecution of these proceedings related to the Coeur d'Alene Site ("CDA site") (also know as the Bunker Hill Superfund Site). The report explains the basis for the calculation of costs incurred and the estimate of costs to be incurred. See, Exhibit USCdA042, Bates Nos. CDAEXPRT000468-478.

### **B. Expert Qualifications**

2. I am a Certified Public Accountant and my qualifications are described in greater detail at page 1 of my June 13, 2007. See, Exhibit USCdA042, Bates Nos. CDAEXPRT000469.

### **C. Statement of Opinions**

3. It is my opinion that the United States Department of Justice ("DOJ") has incurred response costs totaling \$21,081,921 through March 31, 2007 and based on DOJ estimates, will incur response costs totaling \$1,151,505 through October 9, 2007. Hence, the total response costs incurred and to be incurred through October 9, 2007 by the United States Department of Justice related to this Site are \$22,233,426.

### **D. Exhibits to be introduced in Support of Direct Testimony**

4. Copies of the exhibits offered as part of my direct testimony are:

- \* Exhibit USCdA042, Bates Nos. CDAEXPRT000468-478 Expert Report of William M. Kime
- \* Exhibit USCdA043, Bates Nos. USCDA00001-08 Power Point Presentation

- \* Exhibit USCdA044 (US203, Bates Nos. OMAHA113787-89), Proffer of William Kime (Omaha Site)
- \* Exhibit USCdA045 (US094, Bates Nos. OMAHA018052-55), Expert Report of William M. Kime (Omaha Site).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 2<sup>nd</sup> day of Oct, 2007.

  
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William M. Kime

# Claim Analysis

ASARCO LLC.

Coeur d'Alene Site



# William M. Kime

## Background and Qualifications

### Partner

Rubino &  
McGeehin  
Consulting Group

### CPA

Certified Public  
Accountant  
  
25 Years experience  
Public Accounting

### BS Accounting

University of  
Scranton

### Damage Claims

Prepared and/or  
analyzed in excess of  
250 claims for both  
owners and contractors,  
involving accounting  
and costing issues.

### Cost Accounting Expert

Qualified and testified in  
Federal and State  
Courts, Boards of  
Contract Appeals,  
Arbitrations and  
appeared in  
numerous Mediations.

### Instructor

Instructor for Continuing  
Professional Education  
for CPAs and attorneys  
and guest lecturer at  
Universities.

# Coeur d' Alene Site

## Department of Justice Cost Summary

- Department of Justice, Environment and Natural Resources Division – Total \$22,233,426.
- Costs incurred from October 1, 1995 through March 31, 2007 - \$21,081,921.
- Estimated Future Costs April 1, 2007 through October 9, 2007 - \$1,151,505.

## Rubino & McGeehin Work Scope

- Accumulated, summarized and reported costs relating to all Superfund sites, including the Coeur d' Alene site.
- Adjusted claimed amounts to reflect any necessary corrections for this site.
- Prepared expert reports summarizing our analysis and findings.



# Department of Justice Costs

Time Period	Direct Labor Costs	Other Direct Costs	Indirect Costs	Total
10/1/95-3/31/07	\$ 4,503,254	\$6,636,713	\$ 9,941,955	\$21,081,921
<u>Estimated:</u> 4/1/07-10/9/07	144,381	7,332,329	311,507	1,151,505
Total Costs	\$4,647,634	\$7,332,329	\$10,253,462	\$22,233,426



# Department of Justice Costs

Incurred Costs From 10/1/95 Through 3/31/07

FISCAL YEAR ENDED	DIRECT LABOR COSTS	OTHER DIRECT COSTS	INDIRECT COSTS	TOTAL
9/30/96	\$201,562	\$43,119	\$472,451	\$717,132
9/30/97	619,874	429,361	1,450,159	2,499,394
9/30/98	499,006	744,681	1,135,512	2,379,199
9/30/99	653,043	1,119,927	1,495,415	3,268,385
9/30/00	634,439	1,302,747	1,367,453	3,304,639
9/30/01	849,089	1,048,219	1,788,929	3,686,237
9/30/02	161,643	209,385	359,840	730,868
9/30/03	43,823	273,035	94,983	411,841
9/30/04	367,986	742,511	767,718	1,878,215
9/30/05	309,191	294,334	665,107	1,268,632
9/30/06	110,890	421,068	238,971	770,929
9/30/07	52,708	8,327	105,415	166,450
Total Costs	\$4,503,254	\$6,636,714	\$9,941,953	\$21,081,921

## Excluded From Costs

- Costs when supporting documentation could not be located, such as timesheets, or travel documentation was excluded.
- Costs that were incorrectly charged to this litigation, i.e., wrong case numbers were excluded.
- Time charges for selected individuals at the direction of DOJ were excluded.

# Government's Cost Documentation

- Timesheets, invoices and expense reports for all costs incurred through March 31, 2003.
- Time summaries from DOJ.
- Inspector General Audit Reports for 1996 through 2005.
- EPA Billing Summaries prepared by Rubino & McGeehin for fiscal years 1996-2005.
- Estimated labor hours and other direct costs after March 21, 2007 based on information provided by the Department of Justice.